



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCC/149922

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 12, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on July 16, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's BadgerCare+ Core benefits were correctly discontinued for failing to pay the required annual fee at renewal time.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Jose Silvestre

Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal to contest the discontinuance of her BadgerCare+ Core for failing to pay the \$60.00 annual fee. She contends she is homeless and has not funds with which to pay the fee.
3. Petitioner has been a recipient BadgerCare+ Core benefits. Her case was subject to review in April 2013. As part of that review Petitioner was required to pay a \$60 fee.

4. Petitioner's BadgerCare+ Core was discontinued effective May 1, 2013 for failing to pay the \$60.00 fee.
5. There is no evidence in the record to indicate that Petitioner is homeless or member of a Native American tribe as those terms are used by the BadgerCare+ Core program. She does not have a permanent residence but does live with friends.

### **DISCUSSION**

As part of application requirements for the BadgerCare+ Core plan eligibility, a person is required to pay a nonrefundable application fee:

#### Application requirements

- ...
- Must pay a non-refundable, annual application fee. The fee is waived for homeless individuals. "Homeless" is defined according to HUD standards ( See [43.4.2.1 Waiver of Application Fee](#) )
- ...
- BEH, §43.2.*

The obligation to pay the fee is again required at the annual renewable of BadgerCare+ Core eligibility. *BEH, §43.9.* The fee is \$60. *BEH, §43.4.2.*

Petitioner testified at the hearing that she simply does not have the funds and is unable to afford the fee.

The fee can be waived but only in very limited circumstances:

#### **43.4.2.1 Waiver of Processing Fee**

##### **Homeless**

The processing fee is waived for applicants who meet the federal Housing and Urban Development (HUD) definition of homeless:

A homeless individual lacks a fixed, regular, and adequate nighttime residence; and s/he has a primary nighttime residence that is:

- A publicly supervised or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelter and transitional housing for the mentally ill);
- An institution that provides a temporary residence for individuals intended to be institutionalized or an inpatient facility for mental health and/or substance abuse; **or**
- A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

##### **Tribal Members**

The processing fee is waived for tribal members, the son or daughter of a tribal member, the grandson or granddaughter of a tribal member, or anyone otherwise eligible to receive Indian Health Services.

*BEH, §43.4.2.1.*

There is no evidence to indicate that Petitioner is homeless or the member of a tribe as described above. The Division of Hearings and Appeals is without authority to create other waiver criteria.

### **CONCLUSIONS OF LAW**

That the agency correctly discontinued Petitioner's BadgerCare+ Core benefits because she was unable to make payment for the required annual processing fee and does not meet criteria necessary for waiver of the fee.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 28th day of August, 2013

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on August 28, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability